

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA**

REGIONAL BENCH – COURT NO.2

Service Tax Appeal No. 78166 of 2018

(Arising out of Order-in-Appeal No.86-90/S.Tax-II/KOL/2017 Dated 26.12.2017 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

Sai Industries Pvt. Ltd.

(H. O. No. 21, Princep Street, Kolkata-700072)

Appellant

VERSUS

Commissioner of CGST & CX, Kolkata South Commissionerate

(180, Shantipally, Rajdanga Main Road, Kolkata-700107)

Respondent

With

(i) Service Tax Appeal No. 78167 of 2018 (Sai Industries Pvt. Ltd. Vs. Commr. of CGST & CX, Kolkata South) (ii) Service Tax Appeal No. 78168 of 2018 (Sai Industries Pvt. Ltd. Vs. Commr. of CGST & CX, Kolkata South) (iii) Service Tax Appeal No. 78169 of 2018 (Sai Industries Pvt. Ltd. Vs. Commr. of CGST & CX, Kolkata South) (iv) Service Tax Appeal No. 78170 of 2018 (Sai Industries Pvt. Ltd. Vs. Commr. of CGST & CX, Kolkata South)

(i) (Arising out of Order-in-Appeal No.86-90/S.Tax-II/KOL/2017 Dated 26.12.2017 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

(ii) (Arising out of Order-in-Appeal No.86-90/S.Tax-II/KOL/2017 Dated 26.12.2017 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

(iii) (Arising out of Order-in-Appeal No.86-90/S.Tax-II/KOL/2017 Dated 26.12.2017 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

(iv) (Arising out of Order-in-Appeal No.86-90/S.Tax-II/KOL/2017 Dated 26.12.2017 passed by Commissioner of CGST & Central Excise (Appeal-I), Kolkata.)

APPEARANCE :

None for the Appellant

Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

FINAL ORDER NO.76025-76029/2023

Date of Hearing : 11 July 2023

Date of Decision : 11 July 2023

PER R. MURALIDHAR

No one has appeared on behalf of the Appellant. In the interest of justice, the Appeal itself was taken up for disposal.

Service Tax Appeal No. 78166-78170 of 2018

2. Heard the Learned AR and perused the documents.
3. These Appeals arise on account of the refund claims filed by the Appellants who are SEZ Units. The Commissioner (Appeals) in Para 5.4 of the OIA has given the following findings:-

5.4 Moreover, I find that when all such appeals are filed against rejection of their entire refund claim, the claimant is supposed to submit the relevant bills/invoices in support of their claim so that their claim can be validated and approved by virtue of those documents, if admissible based on decision verifying the required particulars. It is opined that it is duty of any claimant to file appeal for refund with proper documents in support of their claim; otherwise the same become infructuous. In this regard, I find that the Hon'ble Revision Authority in their order no. 103-141/14-CX dated 31.03.2014 has held, inter alia.

"Applicant as a beneficiary of export scheme was expected to apply very basis due diligence of preparing proper documentation, which they failed to do. Under such circumstances, the rebate claims are rightly inadmissible."

4. From his findings, it gets clarified that the Appellant has not properly put up the documentary evidence towards their claim for grant of refund. In the interest of justice, I remand the matter to the Adjudicating Authority.
5. The Appellant is directed to make all their submissions along with proper documentary evidence before the Adjudicating Authority in support of their claim.
6. The Adjudicating Authority will follow the principles of natural justice and pass a considered decision within four months from the date of receipt of this Order.

(Dictated and pronounced in the open court.)

Sd/-

(R. Muralidhar)
Member (Judicial)

Pooja